

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JEFFREY GABBAY,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 20-743-JLH
)	
BERNARD G. CONAWAY, ESQUIRE and)	
CONAWAY-LEGAL LLC,)	
)	
Defendants.)	

ORDER

At Wilmington this 3rd day of September, 2025;

WHEREAS, Magistrate Judge Fallon issued a Report and Recommendation on March 27, 2025 (D.I. 91), recommending that the Court GRANT-IN-PART and DENY-IN-PART Defendants' Motion for Summary Judgment (D.I. 75);

WHEREAS, on April 10, 2025, Defendants filed a "Limited Objection to the March 27, 2025, Report and Recommendation" (D.I. 93), which argues that that Magistrate Judge Fallon erred in her recommendation that "[t]he court should not dismiss Plaintiff's claims for negligence and breach of fiduciary duty against the individual defendant, Bernard Conaway" (D.I. 91 at 10);

WHEREAS, Plaintiff responded to Defendants' limited objection (D.I. 94);

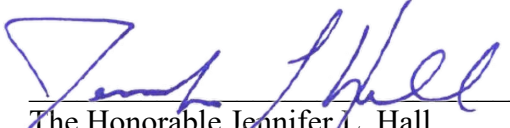
WHEREAS, the Court has reviewed the Report and Recommendation *de novo*, see 28 U.S.C. § 636(b)(1);

WHEREAS, although the parties' briefing on this issue is wildly confusing, what is clear is that the real dispute is about whether Bernard Conaway should remain as a defendant in the case;

WHEREAS, although Defendants are correct that, under Delaware law, a member of an LLC is generally not liable for obligations of the LLC solely by reason of his membership in the LLC, 6 Del. C. § 18-303, a member of an LLC can still be liable for the torts he personally commits,

see, e.g., Weber v. U.S. Sterling Sec., Inc., 924 A.2d 816, 824 (2007) (applying Delaware law); *cf. Gassis v. Corkery*, No. 8868-VCG, 2014 WL 3565418, at *5 (Del. Ch. July 21, 2014), *aff'd*, 113 A.3d 1080 (Del. 2015); and, therefore, I agree with Judge Fallon that “[t]he court should not dismiss Plaintiff’s claims for negligence and breach of fiduciary duty against the individual defendant, Bernard Conaway” (D.I. 91 at 10);

NOW, THEREFORE, IT IS HEREBY ORDERED that Defendants’ objections (D.I. 93) are OVERRULED, the Report and Recommendation (D.I. 91) is ADOPTED, and Defendants’ Motion for Summary Judgment (D.I. 75) is GRANTED-IN-PART and DENIED-IN-PART, as set forth in the Report and Recommendation.


The Honorable Jennifer L. Hall
UNITED STATES DISTRICT JUDGE